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On Behalf of Defendant Gregory Burleson

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GREGORY BURLESON,

Defendant.

No. 2:16-cr-046-GMN-PAL

DEFENDANT GREGORY BURLESON'S
MOTION FOR APPOINTMENT OF
COUNSEL AND IN FORMA PAUPERIS
STATUS

Defendant Gregory Burleson, though undersigned counsel, respectfully requests that the Court appoint undersigned counsel to represent Mr. Burleson for purposes of handling a § 2255 motion. The reasons for this request are as follows.

1. Mr. Burleson's direct appeals have recently ended. He has now indicated that he wishes to file a § 2255 motion based, among other things, on ineffective assistance of trial counsel. He has further indicated that he wants me to represent him for that purpose and asked me to file this motion as he is physically unable to do so.
2. The usual procedure of Mr. Burleson filing a pro se § 2255 motion and requesting appointment of counsel will not work here. Mr. Burleson is totally blind and suffers from seizures and various other physical ailments. He cannot read or write. He is not an attorney. He is incarcerated in a high-security prison (not the medical facility this Court recommended) where he is under substantial constraints in addition to those of

such incarceration, including ongoing harassment and physical assaults by other inmates against which he cannot defend himself. Other inmates also constantly steal his property and tools.

3. Mr. Burleson's trial counsel was appointed to represent him by this Court. Undersigned counsel was previously appointed by this Court to represent Mr. Burleson for his (a) motion for new trial, (b) motions for compassionate release and reduction of sentence, and (c) his two direct appeals to the Ninth Circuit and subsequent appeal to the Supreme Court. He has remained in federal prison and unemployed ever since.
4. As the Court knows, this an extremely complex case with a long history and undersigned counsel, having worked on it for approximately six years through various stages and courts, would be far more efficient from the point of view of conserving CJA resources than appointing new counsel who would have to re-learn a very considerable amount about the case from scratch. Moreover, a considerable amount of funds already authorized for Mr. Burleson's appeals remains unspent.
5. I have consulted with CJA Resource Counsel. They advised me to file this motion. They also indicated that they believed that eligibility could be determined on Mr. Burleson's long history of appointed counsel and his continuous incarceration ever since his first appointment.
6. Also on the advice of CJA Resource Counsel, should the Court grant this motion, counsel respectfully requests that it be *nunc pro tunc* to today's date (February 20) to encompass the preparation of this motion.

For the foregoing reasons, Mr. Burleson respectfully requests that undersigned counsel be appointed to represent him for the purpose of handling a §2255 motion.

Dated: February 20, 2024

Respectfully submitted,

/s/ Mark D. Eibert
Mark D. Eibert on behalf of
DEFENDANT GREGORY BURLESON

CERTIFICATE OF SERVICE

The undersigned hereby certifies that his business mailing address is P. O. Box 1126, Half Moon Bay, CA 94019, that he is not a party to this action, that he is a citizen of the United States of such age and discretion to be competent to serve papers, and that on the below date he caused a true and accurate copy of

MOTION FOR APPOINTMENT OF COUNSEL

To be served via ECF on the United States District Court, which will e-serve

Steven Myhre, Esq.
Assistant U.S. Attorney Attorney for Plaintiff
U.S. Attorney's Office
501 Las Vegas Blvd. South, Suite 1100
Las Vegas, NV 89101

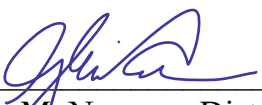
I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief. Executed on February 20, 2024 at Half Moon Bay, California.

/s/ Mark D. Eibert

ORDER

The Court finds that the appointment of counsel is warranted and in the interest of justice consistent with 18 U.S.C. § 3006A(a)(2). **IT IS HEREBY ORDERED** that Defendant's Motion for Appointment of Counsel, (ECF No. 3586), is **GRANTED. IT IS FURTHER ORDERED** that Mr. Mark Eibert is appointed to represent Defendant Gregory Burleson in pursuing relief under 28 U.S.C. § 2255.

Dated this 20 day of February, 2024.



Gloria M. Navarro, District Judge
UNITED STATES DISTRICT COURT